

the highest courts in the land. They have been nominated for lifetime appointments. Let's do our work. The Senate traditionally, over the years, would move judicial nominees expeditiously. And they are getting more difficult.

Now people are saying: We want to review every case that the judge has ever written; we want to review every case on which he made a recommendation. That is ridiculous. It is an excuse for delay. That is not right. It is not for the majority or the minority. I urge my colleagues to be fair to the nominees and get as many confirmed and move the Senate along as we should and restore the Senate through the great traditions that the Senate has long held so we can be worthy of the title of Senator, and not have a reputation of: I am sorry, judge, we are sorry about your political career or, Mr. Attorney, you were nominated by the President of the United States, but we are sorry you have waited a year and a half and you cannot get a hearing before the Senate; they are too busy. That embarrasses me.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. GRAHAM. Mr. President, this is the last day of a long legislative season. We are about to take the month of August to go back to our home States, be with our constituents, and maybe have a little opportunity to get some personal relaxation and rejuvenation, and come back after Labor Day and complete this 107th session of Congress.

It is exactly this time in the legislative calendar where maybe tempers and tolerance are beginning to wear thin and short.

I share with my friend from Oklahoma high feelings for the persons who debated vigorously over the last 2 weeks on an issue whose importance we all understand and feel deeply about, which is the issue of providing a health care program to 40 million senior Americans by adding to that 37-year-old program, at long last, a prescription drug benefit. I think the goal is one we all share. We have somewhat different ideas as to how to get to that goal.

The reason I came to the floor earlier today was out of, yes, a sense of personal attack but also a sense of the need to set a very obvious erroneous record somewhat straighter. My concern was piqued by a statement that was made which implied that I, Senator SMITH, and others, tried to slip something by the Senate. And that

"something" was not a small amount, but a very substantial, maybe as much as a \$70 billion additional cost on the States according to my Republican colleagues.

I knew that was not accurate because I had received from the Congressional Budget Office, which had scored our legislation, the fact that they had determined that, in fact, there was no additional cost to the States and I had made that representation to my colleagues. I felt my personal credibility was at stake. So I went back to the Congressional Budget Office today to recheck what they had said and they reaffirmed the statement that there was no additional cost to the States.

I showed them this—

Mr. NICKLES. Will the Senator yield?

Mr. GRAHAM. Let me just finish, get the facts out, and then we will talk about the policy.

So I showed them this chart. They pointed out what was obvious which was that this chart only shows half, in fact less than half of the equation. It shows the additional costs to the States that will come incident to their picking up some of the prescription drug costs. What it does not show is that the States are going to be relieved of a substantial amount of their current costs.

The Senator from Oklahoma mentioned one of these costs. But, in addition to that, there are other costs from which the States will receive relief. For example, there are 31 States that provide State pharmacy assistance for low-income senior citizens, the States which have received Medicaid waivers in order to allow them to cover additional groups of seniors. As the Federal Government has dawdled on the subject of providing prescription drugs for senior Americans, many States have stepped forward and have done so.

So within the Medicaid Program as well as in areas where the States have tried to fill the void that the Federal Government has left behind, there are substantial savings to the States—thus the report of the Congressional Budget Office that there is no increased cost to the States. But there is no column or figures on this chart which reflect the fact that there are these offsetting savings to the States.

Mr. NICKLES. Will the Senator yield?

Mr. GRAHAM. What got Enron in trouble was it set up a whole constellation of off-budget partnerships in order to hide their expenses.

Mr. NICKLES. Will the Senator yield for a question?

Mr. GRAHAM. And therefore it overstated their profitability.

We have a chart here which does the opposite. We have a chart here which hides the benefits the States are going to get and only highlights those additional costs.

Mr. NICKLES. Will the Senator yield for a question?

Mr. GRAHAM. I am almost there.

Therefore, presenting the impression that the passage of this amendment would result in substantial additional cost to the States—touted to be \$70 billion—is a patently untrue statement.

I wanted to set the record straight before we went home so none of our colleagues spend August worrying that they might have been deceived into believing there was going to be a very major additional cost to the States and that might have influenced their vote on this matter.

So my only purpose was to make those corrective comments and express my hope that in the future we would follow the spirit and custom of the Senate, which is when you distribute a document such as this, you put your name on it so someone is held accountable. And I suggest it would also be helpful if we adopted the custom that there be some source given for documents such as this, so those who are interested in pursuing the basis upon which the calculation was made would at least know whose telephone number to call.

Mr. NICKLES. Will the Senator yield?

Mr. GRAHAM. I would be pleased to yield.

Mr. NICKLES. I am wondering about all these savings. I am looking at my State. You said if the State had a prescription drug program, the Federal Government might be picking up a lot of that State program so therefore it is saving. My State doesn't have that, other than the fact we provide Medicaid prescription drugs up to 74 percent, and that is limited to three prescriptions per month.

So where is the savings for my State? HHS said this is going to cost my State something like \$62 million. My director of Medicaid said it is going to cost our State, and we can't afford it.

There, obviously, under your proposal are some States, maybe a lot of States, that would be losers; isn't that correct? It would increase their Medicaid costs dramatically?

Mr. GRAHAM. What CBO has said is that for the States as a collective, that there would be no additional cost as a result of this. I have asked CBO to prepare a State-by-State analysis of what those offsetting savings would be. I do not have those numbers today.

Mr. NICKLES. Isn't it likely that some States would be losers?

Mr. GRAHAM. But I think it is a given that no State is going to have zero savings. So that every one of these State-by-State numbers is overstated.

Mr. NICKLES. I don't know. I will just state to my friend that these are additional new costs. There may be some offsets. I mentioned one possibility. You mentioned: Well, if they have the State drug program, that might be a savings. I didn't have that program.

The only offsets I could see is if the Federal Government is taking over some of the catastrophic, and I don't see that hardly ever happening. So I

think these are pretty accurate costs. I will be very interested maybe CBO will have a chance to do it. Maybe if we would legislate correctly and not just have a new proposal on the floor, we would have a chance for CBO to score it, not through e-mails saying that we think it is no new net cost but have them give a State-by-State. Then we could be more thorough in our analysis and in our description. And if someone highlights a couple of columns and leaves out a couple of columns, that can be brought out in the debate.

Unfortunately, we did not have that time afforded to us the way this bill was brought to the floor and the way we were considering serious alternatives.

I appreciate my colleague saying, wait a minute, maybe this is not complete. There should have been a column that shows some offsets. But I am absolutely certain that some States would lose millions upon millions of dollars, maybe in the hundreds of millions of dollars. And some States would be real net losers.

There might be some that have some better reimbursement from the Federal Government. In fact, it may be for some of the States that are wealthier, that have more generous programs, we are going to pick up the cost of their doing the program which was a previous State program. Maybe that is an offset.

But I hope, and I think my colleague would agree—or wouldn't you agree—that we should have a more thorough cost analysis by the relevant agencies, whether it is OMB, Labor-HHS, or CBO, when we discuss programs of this significance and the significant impact it would have on our States?

Mr. GRAHAM. I completely agree. I think we should have an analysis that includes both the debit and the credit side of the accounting ledger so we will be able to make an informed judgment as to what the real economic consequences of our decisions will be.

Mr. NICKLES. I thank my colleague.

Mr. GRAHAM. I think on that note of common agreement I wish to thank my friend from Oklahoma for having allowed me to ask him a few questions earlier. I hope he has a very good August recess, and I look forward to seeing him back here on the day after Labor Day, refreshed and ready to complete this session of the Congress.

Mr. NICKLES. I thank my colleague.

MOTOR VEHICLE FRANCHISE CONTRACT ARBITRATION FAIRNESS ACT

Mr. REID. Mr. President, we leave for the August recess having accomplished a lot. When we return in September however, we really have our work cut out for us. It is not simply the annual appropriations bills and completed conference reports we must take up and pass. One measure of particular interest to the Senator from Nevada is S. 1140, the Motor Vehicle Franchise Con-

tract Arbitration Fairness Act. The Judiciary Committee approved this bill back in October 2001. It enjoys 64 bipartisan cosponsors and both the majority and minority leader have indicated their desire to consider this legislation. I am hopeful that any concerns over its merits can be resolved over the August recess so that we can move it expeditiously upon our return.

CONSTITUTIONAL AMENDMENT TO PROTECT THE PLEDGE OF ALLEGIANCE AND THE NATIONAL MOTTO

Mr. LOTT. Mr. President, on June 27, the Senate voted 99 to 0 to pass S. 2690 to reaffirm the reference to "One Nation under God" in the Pledge of Allegiance and the National Motto "In God We Trust." Today, to be absolutely sure that the Nation's courts abide by the original intent of our Founding Fathers, I am proposing an amendment to the Constitution of the United States that would make it clear that the establishment clause in the first amendment was never meant to be construed in a manner that would prevent schools from leading our children in reciting the Pledge of Allegiance simply because it contains the words "under God."

The Senate and the House of Representatives—and the vast majority of the American people—have all expressed their outrage at the decision by the Ninth Circuit Court of Appeals on June 26 that reciting the Pledge of Allegiance in school is unconstitutional because it includes the phrase "under God." People are still understandably stunned and find it not only unbelievable, but indefensible.

The fact that two Federal circuit judges were capable of making such an absurd decision points up, once again, how vitally important these Federal judicial appointments are in guiding not only the Nation's present, but its future as well. Judges are important at every level, but particularly at the appellate court—the circuit court—level.

And this may not be the end of such shocking decisions. There have been reports that similar court challenges will be made to the use of the National Motto "In God We Trust" on our currency and to references to God in our official oaths of office. It is simply incomprehensible that so many Federal judges are so quick to find that the Constitution protects the right of child pornographers to debase society while at the same time requiring the removal of every last vestige of God from the public forum.

It is easy for us all to say the Pledge of Allegiance with gusto and mean it, but we need to look behind this latest decision—and examine how and why it came about. And America's voters need to understand that these Federal judgeships, and who fills them, do make a difference in the kind of society that not only will we live in, but our children's children will live in as well.

TRIBUTE TO CHARLES KOTHE

Mr. NICKLES. Mr. President, on June 19, the people of Oklahoma, and many others around the world lost a great servant and friend with the passing of Charles Kothe. He was 89. Charles Kothe, a long time Tulsa resident and nationally recognized attorney who specialized in labor law, was born October 12, 1912. Kothe received his B.A. degree from the University of Tulsa in 1934 and his J.D. degree, with honors, from the University of Oklahoma in 1938. In his Tulsa based law practice he served as labor relations counsel to companies in various industries throughout the country.

During his six year tenure as Vice President of Industrial Relations at the National Manufacturers Association he authored two books on labor relations and conducted seminars on Title VII of the Civil Rights Act. He was personally commended for this activity by President Lyndon Johnson, and later served as an advisor to Secretaries of Labor Mitchell, Goldberg, and Wirtz. In 1990, he was appointed by the White House to serve as a member of the Federal Service Impasses Panel.

In business, he was an Officer and Director of several corporations, including T.D. Williamson, Inc.; Coburn Optical Co.; and Macnick. Known as a compelling speaker, he appeared as the keynote speaker at conventions and conferences across the Nation. He was named Tulsa Citizen of the Year in 1946, was named as a Distinguished Alumnus of the University of Tulsa, and is listed in the United States Junior Chamber of Commerce Hall of Fame.

He taught labor law at the University of Tulsa and was Dean of the Oklahoma School of Business Accountancy and Law. He also served as Director of Civil Rights and Human Resources in the Graduate School of Business at Oral Roberts University and was the founding Dean of the O.W. Coburn School of Law. For more than 25 years, he taught the Christian Fellowship Class at First Presbyterian Church and later actively served at Boston Avenue Methodist Church. He was very involved with the National Prayer Breakfast here in Washington.

Beyond his credentials and recognitions, Charles Kothe displayed a profound commitment to a cause much greater than himself. This commitment is evident in the life of Janet, his wife of 65 years and in their 4 children and 7 grandchildren. It is evident in the lives of the students that he trained in the rigors of law, many of whom would have not had the opportunity to study but for his encouragement and support. It is evident in his numerous efforts to use the law as a tool for healing in the midst of conflict rather than solely as a means for retribution. You see, Charles Kothe believed that his purpose was rooted in the greatest commitment of Jesus: to love God with all his heart and soul, mind, and strength, and to love his neighbor as himself.